

14 IAN ZABARTE: My name is Ian Zabarte for the
15 Western Shoshone National Council. [The SEIS does not 1
16 include an understanding or analysis from a culturally
17 appropriate tribal perspective, so I will provide one.

18 Many of the early treaties were negotiated
19 hastily under pressure of encroaching settlements and
20 outbreaks of violence. Many Indian tribes accepted
21 inadequate compensation. Many Indian tribes joined the
22 rebel armies during the American Civil War.

23 The Western Shoshone Nation allied itself with
24 the Republic of the United States in the 1863 Treaty of
25 Ruby Valley allowing for the shipment of gold east to
1 pay for the Union's war and ultimate victory against the
2 South.

3 The State of Nevada was birthed under the
4 blanket of aid and comfort that the Western Shoshone
5 Nation provided. The treaty is in full force and
6 effect, a fact confirmed in 1989 by Reno Federal
7 District Judge Bruce R. Thompson in the Dann case.

8 In 1863, the Western Shoshone Nation was
9 strong. The U.S. sought the purchase of specific rights
10 of access and agreed to pay for damage caused to the
11 ownership interests of the Western Shoshone Nation. In
12 1961, the U.S. Congress enacted the Nevada Enabling Act,
13 excluding jurisdiction and Indian property from
14 inclusion in Nevada.

15 The Western Shoshone Nation is not subject to
16 U.S. jurisdiction. In 1883, the Nevada Supreme Court in

17 State versus M'Kenney stated as much. Land ownership,
18 protected by the legal title, is a hallmark of western
19 civilization. As it surveyed the public domain, the
20 U.S. began transferring title by right it obtained in
21 land in land cessions from enabling legislation of
22 territorial government or treaties with Indians.

23 The current regulatory authority for
24 administration of public lands has no purchase power or
25 authority to transfer ownership of property from the
1 Western Shoshone Nation to the U.S.

2 Under 10 CFR 63, land ownership and control,
3 the DOE is required to have ownership, jurisdiction, and
4 control of interest in land used as a repository. The
5 SEIS claims the Indian claims commission process, a
6 quasi-judicial process, and the Dann case proves U.S.
7 title.

8 If such is the process, judicial legislation,
9 then it is suspect, and the current claim of ownership
10 by the DOE through Federal Land Management statutes is a
11 fraud to control Yucca Mountain to achieve through force
12 what cannot be done in fair and honorable dealings with
13 a smaller nation. The Nazis used similar processes to
14 pursue their goal of domination after signing treaties
15 of peace and non-aggression with neighbors.

16 We are afraid of the prospect of nuclear waste
17 in our country and fear the aggressive process deployed
18 so forcefully that we are helpless to resist. The only
19 role for Indian tribes is the removal of archeological
20 resources. We live with uncertainty and fear about a

21 process that requires removal of our cultural ties to
22 our land.

23 When nuclear weapons are developed in our
24 country, our people are not protected. We find our own
25 understanding of death and illness known to be plausible
1 from exposure to radiation. We educate ourselves
2 considering lifestyle differences that likely contribute
3 to our adverse health consequences through unique
4 exposure pathway related to our culture.] ... Continued below

5 [After nine years from seeking affected tribe 2
6 status, the Timbisha Shoshone Tribe was certified as an
7 affected in July of this year, 2007, under the Nuclear
8 Waste Policy Act of 1982. However, nearly six months
9 later, the Timbisha Shoshone Tribe is refused funding to
10 conduct its own oversight and monitoring of the DOE
11 activities and adequately prepare for the Nuclear
12 Regulatory Commission licensing process. The State of
13 Nevada is funded, many counties are funded, but not the
14 Timbisha Shoshone Tribe. This is another disgustingly
15 shameful example of discrimination by the DOE.]

16 [We are a special population with unique ... 1
17 vulnerabilities. Unlike the U.S., the Western Shoshone Continued
18 Nation does have a national ethnic identity. Our
19 cultural identity as a people is more important than
20 U.S. nuclear development and profit for the nuclear
21 industry.

22 Our culture is our strength as a people and is
23 the wealth of our nation. The DOE Study for the

24 Identification of Cultural Objects attempted to address
25 how the DOE deals with Native American holistic
1 relationships in the Yucca Mountain region. A tribal
2 study group was created by the DOE.

3 Recommendations were proffered by researchers,
4 and the tribal study participants then told they should
5 accept the recommendations. The researchers understood
6 that the recommendation they offered violated Native
7 American traditional religious beliefs.

8 The researchers themselves provided the
9 outcomes of the process they conceive and call cultural
10 triage to support the DOE Yucca Mountain project. The
11 word "triage" is of French origin. It denotes the
12 action of sorting according to quality.

13 When applied by the U.S. for nuclear
14 development on a living culture, cultural triage is
15 genocide. A violation of the U.N. Convention on
16 Punishment and Prevention of the Crime of Genocide and
17 the Proxmire Act, the U.S. enactments of the U.N.
18 convention.

19 I have the responsibility to humanity to end
20 the use of this process in the SEIS. So do you. A
21 moral people with ethical scientists cannot condone the
22 use of such practices benefit of the nuclear industry.
23 Transportation of waste to Yucca Mountain would place a
24 disproportionate burden upon the Western Shoshone Nation
25 and has not been addressed in the SEIS.

1 It is environmental racism.] [Special effects
2 or stigma related to impacts to native Americans are not

3 addressed in the SEIS or the Transportation EIS. Tribes
4 along all transportation corridors and especially those
5 with tourism-based economies and gaming facilities must
6 be assessed for stigma-related impacts that may cause
7 irreparable harm to tribal economies from transportation
8 accidents.]

9 These comments will be forwarded to the
10 United Nations Human Rights Commission Committee on the
11 Elimination of Racial Discrimination, the European
12 Parliament, Commission on Human Rights, and the
13 Organization of American States, Human Rights
14 Commission, and the Organization for Security and
15 Cooperation in Europe for use by those entities
16 investigating human rights abuse committed against the
17 Western Shoshone Nation.